

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR JANUARY 17, 2007

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **January 17, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

PRAYER

Commissioner were led in prayer by Commissioner Foley.

ROLL CALL

12 present, 0 absent

APPROVAL OF THE MINUTES OF THE DECEMBER 20, 2006 REGULAR MEETING AND THE JANUARY 3, 2007 REGULAR MEETING

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by unanimous verbal vote to approve the Minutes of the December 20, 2006 Regular Meeting and the January 3, 2007 Regular Meeting.

ITEMS NOT ADDRESS ON THE AGENDA – SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote that in accordance with the provisions of subsection 6 of Rule VI of the Rules and Order of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council rules be suspended to allow Communication Nos. 07-43 and 07-44 to be added to the agenda of tonight's Regular Meeting of the Council.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

Jean Krause, 729 N. Main, came forward to speak on the removal of the trailer at 731 N. Main Street. She was told that this was not the proper time to speak because there is a communication on this agenda tonight for discussion.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb called attention to the spreadsheet he had passed out tonight. This is how we are going to start tracking the bills that our lobbyist J. D. Lynch and our legislators are keeping track of. He called attention to the web address on the top of the spreadsheet. The three things they are watching now are HB 228, revising the time period by which local government shall provide certain building contractors a building permit; SB 14, when landowners purchase property or if there is a public access through they would have to give the Commissioners notice on that. SB 215, would eliminate the way we levy for our mills. This would allow us to levy our mills at the current inflation rate.

Tonight Butte-Silver Bow is receiving a National Historic Landmark designation. We have a plaque that we will be posting. This is a very prestigious award. We do have Shelly Jones, Karen Byrnes, Ellen Crain and Dori Skrukrud over there accepting that award.

Two weeks ago he met with the Governor and his Economic Development Management Team and with other mayors and executives across the state so we could understand what the Governor is proposing in this legislative session. One thing we were talking about is a local option tax.

Today we did have a good announcement that we're moving forward with Foreign Trade Zone. Foreign Trade Zone is something that Butte-Silver Bow is entitled to. The Port of Entry is our airport. We are working with Rick Griffith. It will allow us to(within a 60 mile radius and 90 minutes from our airport) offer businesses who are out there the ability to create their own manufacturing sub zone. They can eliminate the tariff. We will be hiring a consultant that will guide us through that process.

Also Commissioner O'Leary did ask where the animal statistics have been. Erin Wall has provided those to me to day. Shelly Jones will be e-mailing those out to all of you.

This Friday, Delta is having a press conference at 10 AM at the Bert Mooney Airport to talk about their future business and with US Air looking to take them over in a hostile takeover. If US Airways did take over Delta it would affect the Salt Lake City hub because they would have no need for Salt Lake City Hub and that would mean reductions in flights for Butte-Silver Bow. We are trying to get as many people out there to say that we want to see Delta remain the way it is, emerge from bankruptcy and keep our air service the same and increase it so that we can get more flights into this city. He urged everyone to attend this press conference. The person out of Helena that we have been working with will be asking this council for a resolution in the near future.

SECTION I

PRESENTATION

COMMUNICATION NO. 07-34

Dan Dennehy, Director Health Department, requesting time on the 1/17/07 agenda to make a presentation regarding final disposition of Immaculate Conception School and Annex

Dan Dennehy, Director of the Health Department, said that on January 3, 2007 the Community Enrichment Committee recommended that I give you a short presentation regarding the final disposition of the Immaculate Conception School and Annex located on the corner of Caledonia and Western. He is asking the council allocate the reserve funds to demolish the Immaculate Conception School and Annex this fiscal year. Also he asks the Council to request the Public Works Department to develop a request for proposal to solicit proposals to complete the demolition work during this construction season. The use of a Developer's Packet would generate money for the sale of almost approximately a half-acre lot on Caledonia. Those monies from that sale would be put back in the General Fund Reserve funds. Last August he supplied the council with a phased in approach to the IC School and the Annex. The phased in approach really provides \$50,000 for the next three years for the demolition of the IC School and the Annex. Things have changed a lot since then. The most important thing is the Nation Emission Standards for Hazardous Air Pollutants. Those standards require that all asbestos be removed by an accredited abatement firm before demolition could occur. If it is determined that the asbestos cannot be removed safely then it is necessary to have an accredited firm monitor the demolition and all demolition waste be disposed of as asbestos waste. Our staff inspected the building and it was determined by the DEQ that in the newer portion of the building (the annex) it has to be removed before demolition due to the fact that this portion of the building was considered to be structurally sound. The DEQ determined that the asbestos in the older portion of the building could remain in place for demolition since that that portion of the building is too dilapidated to safely remove the asbestos. Our staff met with the environmental firm in Butte. We did receive a proposal from Ingraham Environmental (and it is good for the next 6 months). That will be at the end of April) in the amount of \$12,586.00 to remove the asbestos from the Annex and that will also include the necessary permits from the state, the application, the project design and the disposal as required by Federal standards. We also have a proposal by Ingraham Environmental to monitor the demolition of the older portion of the building that is \$1,350.00 per day. It is our recommendation that the demolition starts immediately after the abatement is completed. It is our recommendation that the whole building be demolished at once instead of in phases. He is asking for concurrence and requests the council to allocate reserve funds to demolish the IC and its annex this fiscal year and request the council to instruct the Public Works Department to develop a RFP to solicit proposals to complete the demolition work during this construction season. The money used for the Developers Packet for the sale of these lots will be put back to replenish the reserve funds. He then answered questions from commissioners.

It was moved by Commissioner O’Leary to concur with the request and recommendations as outlined in Communication No. 07-34 and place on file. Commissioner Sorich seconded the motion and it carried a unanimous verbal vote.

SECTION II

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. PETITIONS

C. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner Fay asked for segregation for Item No. 24, Communication No. 07-41. Commissioner O’Leary segregated Item 19, Communication No. 07-36 and a “friendly amendment” to No. 1 under Section B, Communication No. 07-1. The recommendation was left off. That should be “referred to the Public Works Committee”. Commissioner Shaw made a “friendly amendment” to 07-38, the letter inadvertently makes reference to Chief Executive Jacobson.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section II-A, Items 1 through 4, Section II-B, Item 1, Section II-C, Items 1 through 25, exclusive of Item 19 and 24.

Communication No. 07-36, Jeff Miller, Director of Fire Services, requesting authorization for Chief Executive to seek funding on behalf of Butte-Silver Bow Fire Department through Montana Board of Investments Intercap Loan Program.

Commissioner O’Leary moved to change his recommendation to “concur and to direct the Finance and Budget Office to meet with the County Attorney to draw up the necessary resolution and to authorize the Chief Executive to sign documents for the financing application. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.

Communication No. 07-71, Tim Clark, Personnel Director, requesting approval and authorization for Chief Executive to execute contract documents with Fox Lawson and Associates.

Commissioner Fay said he is concerned with the cost of the study. It probably is a reasonable cost but he is concerned about where that money is coming from. He asked for Jeff Amerman address that.

Jeff Amerman, said when they first began to explore funding possibilities for this study, we were looking at a portion of the general fund under Non-department Aligned Activity for Employee Associated Costs. This is a fund that is available generally if employees terminate and it is deemed an emergency that you have to replace them and you can't wait for their pay-out time. You can utilize this fund to pay out the employees and then get somebody new on board. It's not often used. This year we had allocated \$85,000. We're going to use I would estimate at least \$60,000 of that which would leave \$25,000 available and appropriated but there is no more beyond that. If we go forward with this you would have to use Reserve Funds for any balance above that.

Commissioner Sorich asked Tim Clark, Personnel Director, if this study will be completed before the end of this fiscal year. Mr. Clark said the firm that they are looking at has indicated that they will need six months to complete. A lot of it is going to depend on the work that Butte-Silver Bow is going to be asked to do in getting them the information. We will be close, but for every day we delay in not contracting with any company puts us behind the eight ball as far as meeting that June 30th deadline we had established. Commissioner Sorich asked if we could do this in a two payment plan, partial this year and partial next year. Mr. Clark replied they bill the way work is done in each month that they perform services for us. We could propose this.

Commissioner Fay moved to concur with Communication No. 07-41 and place on file. Joe Lee seconded the motion. On the question, Commissioner Sorich said we need to figure out a way to spread the payments over until next year. **Commissioner Sorich then made a substitute motion that the HR Department research with the aid of the Finance and Budget Office how to best spread out payments without using reserve and report back to Council. Commissioner Coleman seconded the motion.** On the question Commissioner O'Leary asked if Mr. Sorich's motion also included moving forward with executing the contract documents. Mr. Sorich said no, not until we know how we are going to spread out the payments. Mr. Coleman asked Mr. Amerman if we drained the fund for employee payout is that going to be replenished next fiscal year. Mr. Amerman said yes we keep that funded every year. One of the risks we run into is should we have key employee terminate and we have utilized all these funds, we will be asking to dip into the reserve. Chief Executive Babb asked for Dan Larson of the Health Department, to explain the process the employees went through. On the question, Commissioner Fay asked Mr. Amerman what portion of the reserves does the \$50,000 or so that we have to take out represent. Mr. Amerman answered it actually represents a insignificant portion of reserves. **Commissioner Fay then made a motion to end all motions to approve this contract with the stipulation that whatever can be worked out**

to delay the payments into the next fiscal year be taken advantage of and that we might concur with Communication No. 07-41 and place it on file. The motion was seconded by Commissioner Coleman. On the question Commissioner Sheehy asked Mr. Amerman the fund you talked about, is that in Benefit and Wages. Is that the column it is carried in. Mr. Amerman said it would be necessary to do a budget transfer into Line 350, professional services for the \$25,000. Commissioner Sorich questioned what Mr. Fay meant by “whatever” in his motion. Mr. Fay added that all means possible be pursued to spread that payment out. Mr. Coleman called for the question. Chief Executive Babb said we have three motions made tonight. We will vote on the motion to end all motions. If that passes, we are done. If it fails we go to the substitute motion. If the substitute motion fails, we go to the original motion. With that, we are voting on the motion to end all motions. **A verbal vote was taken with two nays. Commissioners Sorich and Foley voting nay. Motion passed.**

Now, considering the emergency communications.

Communication No. 07-43 – Stephen Hess, Acting Planning Director, requesting that the Council add Communication No. 07-43 to tonight’s agenda asking authorization for Chief Executive to submit letter of support to the Montana Board of Housing for the proposed Montrose Apartments on behalf of Thomas Development Company.

Tom Mannschreck, President of Thomas Development Company, 413 W. Idaho in Boise. This is phase three of their development. It is a senior community in Montana. He gave a description of the proposed project, a copy of which is attached to the communication. And asked for a letter of support to the Montana Board of Housing to accompany their tax credit application.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 07-43 and authorize the Chief Executive to submit a letter of support to the Montana Board of Housing for the proposed Montrose Apartments on behalf of Thomas Development Company.

Communication No. 07-44 – Russ Connole, Economic Development Director, requesting time on the 1-31-07 agenda to open Request for Qualifications for a professional consultant that will assist with the establishment of a General Purpose – Foreign Trade Zone.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request outlined in Communication No. 07-44 to open proposals on January 31, 2007.

COMMUNICATIONS TO BE READ AND ACTED UPON

1. 07-35 Mark Reavis, Health Department, requesting Council vote on abatement of 731 North Main Street by demolition and removal of trailer.

Mark Reavis, Health Department, told Council the owner responded one day late. The Public Hearing was closed on the 3rd. He sent a letter back to Chief Executive Babb on the 4th. It didn't respond to the citations of the Community Enrichment Ordinance. He reported to the Community Enrichment Committee and the owner, Mr. John Rosa of Bozeman, Montana, showed up at that meeting. He wrote a 20-word letter that indicated that he is now willing to donate the property to Butte-Silver Bow. Mr. Reavis handed out pictures of the trailer and signed statements from surrounding neighbors.

Commissioner O’Leary asked anyone who wished to speak on this matter to come forward.

Jean Krause, 729 N. Main, came forward to explain their experience with this property. Last year between Christmas and New Years someone set the house on fire. Since then graffiti has been put on it and we tried and was unable to get it spray painted off until just recently.

It was moved by Commissioner O'Leary, seconded by Commissioner Mulcahy and carried with a unanimous verbal vote that we proceed toward demolition via having this mobile home removed and whatever the recommendations of Mr. Reavis are

SECTION IV

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

- 1. COUNCIL BILL NO. 07-1**
ORDINANCE NO. 07-1

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010(i) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “STOP SIGNS”; PROVIDING THAT TRAFFIC PROCEEDING ALONG IDAHO STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF IDAHO STREET AND JOSETTE AVENUE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

2. COUNCIL RESOLUTION NO. 07-1

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THE STREET ADJACENT TO LOTS 14, 15, 16, 17 AND 18, THE ALLEY ADJACENT TO LOTS 9, 10, 11, 12 AND 13 AND THE ALLEY ADJACENT TO LOTS 3, 4, 5, 6, 7 AND 8, ALL IN BLOCK 45 OF THE SOUTH PARK ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

2. COUNCIL RESOLUTION NO. 07-03

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE NICHOLS MINOR SUBDIVISION – SUMMARY REVIEW OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

**SECTION V ORDINANCES AND RESOLUTIONS –
SUSPENSION OF THE RULES FOR FINAL PASSAGE**

It was moved by Commissioner , seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No. 07-2 by waiving subsection 7 of the Rule XXXVI, of the Rules and Order of Business of the Council of Commissioners, thereby having it considered by advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 07-2

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW PUBLIC WORKS DEPARTMENT, TRANSIT DIVISION FROM: THE MONTANA DEPARTMENT OF TRANSPORTATION,, TRANSIT SECTION; AWARE, INC.; THE BELMONT SENIOR CENTER AND GREYHOUND LINES, INC., ALL TO BE EXPENDED IN THE TRANSIT FUND; REDUCING AN AUTHORIZED APPROPRIATION PREVIOUSLY BUDGETED IN THE BUTTE-SILVER BOW PUBLIC WORKS DEPARTMENT, TRANSIT DIVISION FOR AN ANTICIPATED CAPITAL GRANT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION, WHICH GRANT WAS NOT RECEIVED AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It as moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 07-2 on final reading and passed having been deemed fully read at length

It was moved by Commissioner O’Leary, seconded by Commissioner Lee to place on file Communications No. 07-41, 07-43, 07-44 and 07-35 and carried by a unanimous verbal vote.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:15 PM

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER